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## EXHIBIT 12

## **DECLARATION OF BRYAN WAIER**

- I, Bryan Waier, hereby declare as follows:
- 1. I have personal knowledge of the facts contained in this Declaration, and they are true to the best of my knowledge and belief. I am over 18 years old and competent to testify to the following.
  - 2. I farm land in and around McLeansboro, Illinois.
  - 3. I first purchased Nutriplant<sup>TM</sup> products in December 2018 for the 2019 crop year.
- 4. I purchased those Nutriplant™ products from Benjamin Buckwalter, who sold them on behalf of a company called Yield Nation. I paid for the products by check, which I made out to Yield Nation. A true and correct copy of the invoice Mr. Buckwalter gave me for that purchase is attached as **Exhibit A**.
- 5. I bought both the Nutriplant<sup>TM</sup> AG foliar treatment, a spray fertilizer, and Nutriplant<sup>TM</sup> SD seed treatment, which helps seeds flow through a planter while adding some nutrients. I purchased one 30-gallon drum of the Nutriplant<sup>TM</sup> foliar spray. I purchased five buckets of the Nutriplant<sup>TM</sup> SD seed treatment. The foliar spray came in a blue plastic barrel with a Nutriplant<sup>TM</sup> label, as represented on the invoice. A true and correct photograph of the barrel I received in 2019 is attached as **Exhibit B**.
- 6. I had a good experience with both Nutriplant<sup>TM</sup> products in the 2019 crop year. The Nutriplant<sup>TM</sup> foliar spray was easy to use and apply. I used it on my wheat crop and saw good results.
- 7. In November 2019, Mr. Buckwalter followed up and asked if I wanted to purchase more of the foliar spray and seed treatment. I ordered another 30-gallon barrel of the Nutriplant<sup>TM</sup> AG foliar spray for use on my soybeans in 2020. I also bought five more buckets

of the Nutriplant<sup>TM</sup> SD seed treatment. Mr. Buckwalter gave me an invoice from Yield Nation showing pictures of the Nutriplant<sup>TM</sup> products I purchased. A true and correct copy of the invoice Mr. Buckwalter gave me for that purchase is attached as **Exhibit C**. The product was paid for by check to Yield Nation.

- 8. I agreed to purchase more of the Nutriplant<sup>TM</sup> foliar spray and seed treatment because of the way those products performed in 2019.
- 9. Mr. Buckwalter delivered the buckets of Nutriplant™ SD seed treatment I purchased. The foliar spray was to be delivered later.
- 10. By spring of 2020, I had not received the foliar spray, so I called Mr. Buckwalter about it. The foliar spray finally arrived a couple of weeks later. A true and correct copy of the delivery receipt showing the shipment from Yield Nation is attached as **Exhibit D**.
- 11. When the foliar spray finally arrived, it was in a clear, white barrel instead of the blue barrel I had received earlier that year and which was also represented on the invoice for this purchase. The barrel also had a Yield Nation label instead of the Nutriplant<sup>TM</sup> label like the barrel I had previously purchased. A true and correct photograph of the barrel I received in 2020 is attached as **Exhibit E**.
- 12. I could immediately see that the foliar spray itself was not the same and had separated out in the barrel. However, at that point I still had Nutriplant<sup>TM</sup> AG foliar spray left over from 2019 that I could use on my 2020 crops, so I didn't need the product immediately. I therefore did not contact Mr. Buckwalter or Yield Nation immediately.
- 13. I did contact Mr. Buckwalter when I ultimately went to use the foliar spray that arrived in the clear, white barrel with the Yield Nation label. I told him the product did not look right. He then told me that he had outsourced the product to a different company, but assured me

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it was the same ingredients. He said "just reference the label." He relied on the label to tell me that the product was the same as the Nutriplant  $^{TM}$  AG foliar spray I had previously purchased.

- 14. Even when I rolled the barrel of Yield Nation foliar spray on the floor, it would not mix. I told Mr. Buckwalter that I would not put the product in my sprayer because the product would not mix. I did not want to risk clogging my sprayer. I refused to open the sealed barrel. Mr. Buckwalter told me to open the barrel to try and mix some of the product in a jar. I didn't open the barrel because I suspected he would refuse to refund it.
- 15. When I told Mr. Buckwalter that I wanted a refund, he told me to give him some time to check if he had any of the 2019 product left. I did not hear back from him, so I called him again in June or July of 2020. He said he would have his secretary, Jen, call me to arrange a refund. I have not had any contact with anyone from Yield Nation since.
- 16. I have not purchased any more Nutriplant<sup>™</sup> products after this experience, and I will not to purchase more Nutriplant<sup>™</sup> products until I receive the Nutriplant<sup>™</sup> product that I paid Yield Nation for.
- 17. I have since learned that Mr. Buckwalter used my name as part of his sales pitch while selling the foliar spray and seed treatment to other farmers. As a result, several local farmers called me in 2019 asking about those products. I gave positive references for the Nutriplant™ products to several local farmers based on what I purchased for the 2019 crop year; but, I would not give a similar reference for the product I purchased for the 2020 crop year.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 10th, 2021

Bryan Waier





## REDACTED

SALES RECEIPT

Sales Rep: Ben Buckwalter

Phone Email:

Sale To: Bryan Waier

Mc Leansboro, IL 62859





Ensure maximum crop yield with this liquid foliar nutritional supplement.



Provide essential nutrients which activate crucial enzymes that optimize metabolic pathways necessary for proper seedling growth and enhanced vigor.



For better weed control, for hardto-penetrate soils, for many farming applications.

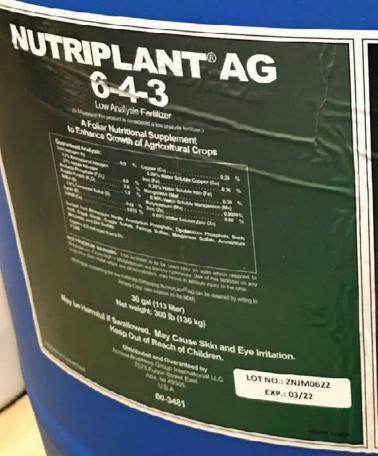
PAYMENT METHOD		DATE OF SALE		MISC.		
Check		12/13/2018		Receipt # 04-121985		
QTY	ITEM	DESCRIPTION	UNIT I	PRICE	DISCOUNT	LINE TOTAL
1	30 gal.	Nutriplant AG	\$12.00	/acre	-\$2.20/acre	\$2350
5	25 <b>1</b> b.	Nutriplant SD	\$3.00/acre		-\$1.00/acre	\$2400
				TOTAL		

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SUBTOTAL	
SALES TAX	
TOTAL	\$4,750.00

Please make check payable to Yield Nation

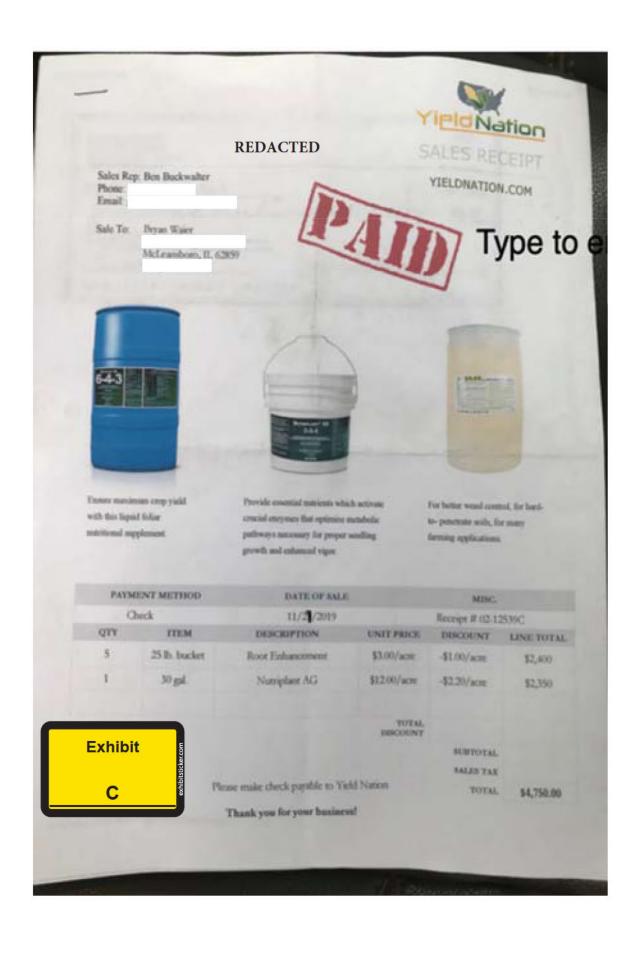
Thank you for your business!



## RECOMMENDED NUTRIPLANT® AG Application Rates and Times for Selected Copts PPLICATION. SI MAKE WELL before using. Distin with infair to obtain uniform coverage. Distinct deponds on spraying age parts. A principle of the part of the parts of the parts

**Exhibit** 

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